

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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Medi-Hut Co., Inc.,

Plaintiff,

-against-

Syntho Pharmaceuticals, Inc., Muhammed
Malik, Breckenridge Pharmaceutical, Inc.,
Larry Runsdorf, Scott Schrader, Schrader
& Associates, Inc., Bluegrass Drug, Inc.,
and Medpharm Corporation,

Defendants.

TEMPORARY RESTRAINING ORDER

03-CV-2387 (DLI) (RML)

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DORA L. IRIZARRY, U.S. District Judge:

On December 29, 2006, defendant Breckenridge Pharmaceutical, Inc. (“Breckenridge”) moved for an Order to Show Cause for Temporary Restraining Order and Preliminary Injunction against defendants Syntho Pharmaceuticals, Inc., and Muhammed Malik (“Syntho”). Syntho opposed the motion.

The court held a hearing on the motion on January 18, 2007. While all parties had been directed to attend, counsel for Scott Schrader, Schrader & Associates, Inc., Bluegrass Drug, Inc., and Medpharm Corp. failed to appear.

The court stated that civil case No. 06-CV-3877 before U.S. District Judge Joseph Bianco for the Eastern District of New York, captioned *United States of America v. Syntho Pharmaceuticals, Inc., Intermax Pharmaceuticals, Inc., Muhammed Malik, and Hosneara Malik*, will be transferred to Judge Irizarry as it related to this action.

The court noted the untimely second response filed by Syntho on January 17, 2007, but did

not strike it in the interest of justice and judicial economy. Breckenridge shall have to January 31, 2007 to reply to Syntho's Second Response. Breckenridge shall also have until January 31, 2007 to amend its pleadings as to cross-claims against Syntho, and Syntho shall have until February 14, 2007 to reply.

After hearing argument from both parties, reviewing the Consent Decree of Permanent Injunction entered in Case No. 06-CV-3877 by Judge Bianco, which required recall of Syntest and other products manufactured by Syntho, and noting that defendant Malik was not present as he was out of the country and not expected to return until January 22, 2007 due to a state of emergency in Bangladesh, where he is at this time;

The court finds that Breckenridge would suffer irreparable harm with respect to its reputation and brand name with the introduction by Syntho of non-FDA approved product, and that any actions taken by Syntho to market Syntest would circumvent both the Consent Decree with the United States Department of Justice, as well as the retail-level recall of Syntest manufactured by Syntho.

Accordingly, it is ORDERED that the court grants Breckenridge's Motion for a Temporary Restraining Order until the preliminary injunction hearing scheduled for March 8, 2007, and defendants Syntho Pharmaceuticals, Inc. and Muhammed Malik, and each and all of their directors, officers, agents, representatives, employees, attorneys, successors, related companies and all defendants in Case No. 06-CV-3877, United States District Court for the Eastern District of New York, and assigns, and any and all persons in active concert or participation with any of them who receive actual notice of this decree by personal service or otherwise, are temporarily restrained and enjoined from directly or indirectly selling, offering to sell or distributing any Syntest product, either in bulk or packaged/bottled, of any strength, at or from defendant's facilities located at 228 and/or

230 Sherwood Avenue, Farmingdale, New York, or at any new facility or through any third party, and defendants Syntho Pharmaceuticals Inc. and Muhammed Malik, and each and all of their directors, officers, agents, representatives, employees, attorneys, successors, related companies and all defendants in Case No. 06-CV-3877, United States District Court for the Eastern District of New York, and assigns, and any and all persons in active concert or participation with any of them who receive actual notice of this decree by personal service or otherwise, are enjoined from using the Syntest mark and attempting to or granting to any third parties the right to use the Syntest mark, or attempting to grant any third parties the right to distribute the composition Syntest product under any other name or mark.

This order shall be in effect *nunc pro tunc* to January 18, 2007.

SO ORDERED.

DATED: Brooklyn, New York
February 14, 2007

/s/
DORA L. IRIZARRY
United States District Judge